IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIRST DAY OF SEPTEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

–

WRIT PETITION NO : 3979 of 1996

Between:

Baddula Sattiamma,

Wife of late Ramaiah, Shadnagar,

Shadnagar Mandal, Mahaboobnagar

District.

... PETITIONER

AND

1. The village Gram Panchayat,

Farookhnagar, Shadnagar Mandal,

Mahaboobnagar District.

2. Komaramma, w/o Chennaiah,

r/o Indira Colony, Shadnagar

Mandal, Mahaboobnagar District.

….RESPONDENTS

* * * *

ORDER:

The case of the petitioner is that her husband, who died on 28-6-1993, was the owner of the building-bearing house Nos.17-52 and 17-53 and was paying house tax in respect of the said building to the first respondent Gram Panchayat and that even subsequent to death of her husband she has been living in the said house and has been paying house tax to the first respondent in respect thereof; and that second respondent managed to get her name mutated in the assessment register in respect of house bearing No.17-53 and is claiming to be the owner of the said property. Since no notice of change of mutation in respect of house bearing No.17-53 was given to her at any point of time, the action of the first respondent in mutating the name of the second respondent in the assessment register in respect of house No.17-53 is improper and so a direction may be given to the first respondent to restore the *status quo ante*.

2. Respondents did not file any counter till now even though this petition was filed in 1996.

3. Heard the learned counsel for the petitioner. There is no representation on behalf of the respondents.

4. The documents produced by the petitioner show that Ramaiah, husband of petitioner, paid house tax in respect of building bearing Nos.17-52 and 17-53 to the first respondent for the year 1992-'93. Surprisingly, the first respondent

issued ownership certificates showing that house bearing No.17-52 is standing in the name of Ramaiah son of Lakshmaiah, and that the house bearing No.17-53 is standing in the name of Komaramma, wife of Chennaiah (second respondent). When the house tax receipt dated 04-01-1993 shows that Ramaiah paid tax in respect of both house Nos.17-52 and 17-53, how the name of the second respondent was mutated in respect of house No.17-53 in 1995, is not explained by the respondents.

5. As per the rules relating to levy of house tax issued in G.O.Ms.No.282 Panchayat Raj dated 12-03-1965 framed under the A.P. Gram Panchayats Act, 1964, if there is a voluntary transfer, mutation can be effected only when both parties apply for the same or if one of the parties to the transfer makes an application, after affording an opportunity of being heard to the other party after issuing notice of the said application. In case of transfer by succession, on satisfactory proof of title only the executive authority can order transfer of entries in the registers.

6. Since the respondents failed to produce any document to show that notice was given to the petitioner or her husband about the proposed change of the entry in the assessment register or about the application of the second respondent for mutation of her name in respect of house No.17-53, it has to be taken that mutation of the name of the second respondent was effected without affording an opportunity of being heard to the petitioner or her husband, which is contrary not only to the principles of natural justice but to the Rules aforesaid also.

7. Therefore, the order mutating the name of the second respondent in respect of house No.17-53 in the assessment registers of the first respondent is liable and hence is set aside.

8. If the second respondent had files an application for mutation of her name in the registers in respect of house No.17-53, first respondent can consider that application only after giving notice of such application to the petitioner and after affording an opportunity of being heard to the petitioner.

9. With the observation, the writ petition is disposed of. No order as to costs.

C.Y.SOMAYAJULU,J.

Date: 01st September 2005.

BSB